HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Monday, April 19, 2021
87th Legislature, Number 37
The House convenes at 11 a.m.
Part One

Two bills are on the Major State Calendar and 26 bills are on the General State Calendar for second reading consideration today. The bills analyzed or digested in Part One of today's *Daily Floor Report* are listed on the following page.

The following House committees were scheduled to meet today: Juvenile Justice and Family Issues; Ways and Means; Defense and Veterans' Affairs; Culture, Recreation and Tourism; Higher Education; Corrections; Business and Industry; Criminal Jurisprudence; and Environmental Regulation.

Alma Allen
Chairman
87(R) - 37

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SUBJECT: Creating the Electricity Supply Chain Security and Mapping Committee

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 9 ayes — Goldman, Anchia, Craddick, Darby, Geren, T. King, Leman, Longoria, Reynolds

0 nays

2 absent — Herrero, Ellzey

WITNESSES: For — Tom Glass, Protect the Texas Grid; Todd Staples, Texas Oil and Gas Association; (*Registered, but did not testify*: Lauren Spreen, Apache Corporation; Mike Meroney, BASF Corporation; Julie Williams, Chevron; Stan Casey, ConocoPhillips; Teddy Carter, Devon Energy; Daniel Womack, Dow, Inc.; Shannon Meroney, Enel North America; Shayne Woodard, FreeportLNG—DCP Midstream and Enbridge Energy; Julie Moore, Occidential Petroleum; Ben Shepperd, Permian Basin Petroleum Association; Mark Gipson, Pioneer Natural Resources; Jason Modglin, Texas Alliance of Energy Producers; Chris Noonan, Texas Chemical Council; Ryan Paylor, Texas Independent Producers & Royalty Owners Association (TIPRO); Thure Cannon, Texas Pipeline Association)

Against — None

On — Liz Jones, AECT; Cyrus Reed, Lone Star Chapter Sierra Club; Michele Richmond, Texas Competitive Power Advocates (TCPA); Julia Harvey, Texas Electric Cooperatives, Inc.; Russell T. "Russ" Keene, Texas Public Power Association; (*Registered, but did not testify*: Thomas Gleeson, Public Utility Commission of Texas; Edgar Chavez, Natalie Dubiel, Paul Dubois, and Mark Evarts, Railroad Commission)

DIGEST: CSHB 14 would create the Texas Electricity Supply Chain Security and Mapping Committee to map the state's electricity supply chain and natural gas delivery system, identify related critical infrastructure sources, establish best practices to prepare facilities to maintain service in an extreme weather event and recommend oversight and compliance standards for those facilities, and designate priority service needs to prepare for, respond to, and recover from an extreme weather event.

The bill would define "electricity supply chain" to mean facilities and methods used for producing, processing, or transporting natural gas for delivery to electric generation facilities and critical infrastructure necessary to maintain electricity service.

"Natural gas delivery system" would mean facilities and methods used for producing, processing, or transporting natural gas for delivery to distribution gas pipeline facilities and critical infrastructure necessary to maintain natural gas service.

Powers and duties. The committee would have to meet at least quarterly and would be required to:

- map the state's electricity supply chain to designate priority electricity service needs during extreme weather events;
- identify and designate the sources in the electricity supply chain necessary to operate critical infrastructure;
- develop a communication system between critical infrastructure sources, the Public Utility Commission (PUC), and the independent organization certified by the PUC to perform certain functions related to the electric grid and electricity market in the ERCOT power region (ERCOT organization) to ensure that electricity and natural gas supplies were prioritized to those sources during an extreme weather event; and
- establish best practices to prepare facilities that provide electric and natural gas service to maintain service in an extreme weather event and recommend oversight and compliance standards for those facilities.

The PUC would have to create, maintain, and update at least annually a database identifying critical infrastructure sources with priority electricity needs to be used during an extreme weather event.

Membership. The committee would be composed of:

- the executive directors of both the PUC and the Railroad Commission (RRC);
- the president and the CEO of the ERCOT organization; and
- the chief of the Texas Division of Emergency Management (TDEM).

The PUC executive director would serve as the chair of the committee, and the RRC executive director would serve as the vice chair.

A member who was an ex officio member from a state agency would be reimbursed for expenses related to committee responsibilities from money appropriated for that purpose in the agency's budget. Other members could receive reimbursement from money appropriated for that purpose.

Report. The committee would have to submit a report to the governor, the lieutenant governor, the House speaker, and the Legislature on its activities and findings by January 1, 2022. The report would have to include certain items related to the committee's powers and duties.

The report would be public information except for portions considered confidential under state or federal law.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 14 would ensure that the state was better prepared for energy needs during future weather emergencies by requiring the mapping of the state's electricity supply chain and natural gas delivery system to designate priority electricity service needs.

A lack of coordination between natural gas producers, electric providers, and state regulatory bodies has been cited as contributing to the extended power outages faced by millions of Texans during Winter Storm Uri. During the storm, power was shut off to some natural gas facilities because they were not registered as critical load serving electric generation, affecting the natural gas supply to some electricity generation facilities. CSHB 14 would address this issue by providing information critical for ensuring the efficient flow of electricity to natural gas production facilities and thus the flow of natural gas to electric generators. The bill would facilitate regular communication between the Public Utility Commission, the Railroad Commission, the ERCOT organization, and the Texas Division of Emergency Management and create a database of critical infrastructure sources with priority electricity needs.

The bill would require the committee to provide recommendations to best prepare facilities in the electricity supply chain for future extreme weather events. While such recommendations certainly could include weatherization, the bill should not be any more prescriptive to allow the committee to establish best practices for each unique component of the electricity supply chain and the natural gas system.

CRITICS SAY:

CSHB 14 would not go far enough to ensure Texas' electricity supply chain was prepared for future extreme weather emergencies. Although the committee could recommend weatherization as part of best practices for facilities to maintain service during an extreme weather event, the bill should specifically require the committee to look at weatherization of natural gas facilities as part of its duties.

OTHER CRITICS SAY:

The committee created under CSHB 14 would be too narrowly focused on extreme weather threats to Texas' electricity system. To ensure a resilient electricity supply chain, the committee should address all potential threats, both natural and manmade.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact to general revenue of $565,418 through fiscal 2022-23.

SUBJECT: Securitization of extraordinary costs incurred by certain gas utilities

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 8 ayes — Goldman, Craddick, Darby, Geren, T. King, Leman, Longoria, Reynolds

0 nays

3 absent — Herrero, Anchia, Ellzey

WITNESSES: For — Conrad Gruber, Atmos Energy Corporation; Jason Ryan, CenterPoint Energy; Brent Bishop, CoServ Gas, Ltd.; Daniel Pope, SiEnergy, LP; Riley Stinnett, Texas Gas Service; (*Registered, but did not testify*: Kyle Frazier, Epcor; Jason Modglin, Texas Alliance of Energy Producers; Tyler Rudd, West Texas Gas; Tom Glass)

Against — None

On — Cyrus Reed, Lone Star Chapter Sierra Club; Mark Evarts, Railroad Commission; (*Registered, but did not testify*: Natalie Dubiel, Railroad Commission)

DIGEST: CSHB 1520 would provide securitization financing for gas utilities to recover extraordinary costs related to securing gas supply and providing service during natural and man-made disasters, system failures, or other catastrophic events and restoring systems after those types of events.

The securitization financing mechanism would have to provide rate relief to customers by extending the period during which the extraordinary costs were recovered from customers and support the financial strength and stability of gas utility companies.

The Railroad Commission (RRC) would have to ensure that securitization provided tangible and quantifiable benefits to customers and that the structuring and pricing of the customer rate relief bonds would result in charges consistent with the terms of the applicable financing order and market conditions at the time of the pricing of the bonds.

Extraordinary costs. Under the bill, extraordinary costs would be the reasonable and necessary costs placed in a regulatory asset and approved by the RRC in a regulatory asset determination. They would include any costs of acquiring, retiring, and refunding a gas utility's existing debt and equity securities or credit facilities in connection with the issuance of customer rate relief bonds.

The bill would specify other items extraordinary costs could include, such as costs incurred to serve customers, including costs incurred by a utility for gas procurement, supply and system restoration and infrastructure, operations and administration in response to a hurricane, ice or snow storm, or other weather-related event, a natural or man-made disaster, or another catastrophic event. Extraordinary costs also could include natural gas procurement costs above normalized market pricing and reasonable estimates of those costs or the costs of any activity conducted or expected by the utility in connection with the restoration of service or infrastructure associated with natural gas outages.

A carrying charge interest rate at the gas utility's cost of long-term debt as last approved by the RRC in a general rate proceeding could be considered an extraordinary cost if the commission's final order was filed no more than three years before the application for regulatory asset recovery was filed. If the final order did not meet that requirement, the bill would provide for an alternative cost of long-term debt that would have to be used. The carrying charge interest rate set at the applicable cost of long-term debt would have to be applied from the date the extraordinary costs were incurred until the customer rate relief bonds were issued or extraordinary costs were otherwise recovered by the gas utility.

Powers of RRC, other regulatory authorities. The RRC would have exclusive, original jurisdiction to issue financing orders that authorized the creation of customer rate relief property, customer rate relief charges to service customer rate relief bonds, and financing costs. The commission could authorize the issuance of customer rate relief bonds if other requirements of the bill were met.

The RRC could assess to a gas utility costs associated with administering the bill, and the assessments would have to be recovered from rate-regulated customers as part of gas cost. The bill would not limit or impair a regulatory authority's plenary jurisdiction over the rates, charges, and services rendered by gas utilities.

Regulatory asset determination. A gas utility desiring to participate in the customer rate relief bond process under a financing order would have to file an application with the commission within 90 days after the conclusion of the event for which regulatory asset recovery was requested. The RRC would determine the amount to be recovered.

A gas utility desiring to request recovery relating to the February 2021 winter storm could file an application within 60 days after the bill's effective date.

If the commission did not make a final determination on the regulatory asset amount to be recovered within 91 days after the utility filed the application, the regulatory asset amount requested by the utility would be considered approved. The bill would provide a process by which a utility could appeal the regulatory asset determination.

Financing orders, issuance of bonds. If the RRC determined that customer rate relief bond financing for extraordinary costs was the most cost-effective method of funding regulatory asset reimbursements, the RRC could request the Texas Public Finance Authority (TPFA) to issue bonds on the commission's behalf. The RRC would have to make the determination by comparing the net present value of the costs to customers resulting from the issuance of bonds and the costs that would result from conventional methods of financing extraordinary costs and would have to issue a financing order before making the request.

The financing order would have to be issued within 90 days after the regulatory asset determination was concluded and do certain things as listed in the bill, including:

- finding that the use of the securitization financing mechanism was in the public interest;
- authorizing TPFA's issuance of bonds through one or more legally isolated, bankruptcy-remote financing entities;
- including a statement of the aggregated regulatory asset determination to be included in the principal amount of the bonds, not to exceed $10 billion for any issue, and the maximum scheduled final maturity of the bonds, not to exceed 30 years;
- providing that customer rate relief charges be allocated among customers of each utility for which a regulatory determination had been made through uniform monthly volumetric charges to be paid as a component of gas cost; and
- reflecting the commitment made by each utility receiving proceeds that the proceeds were in lieu of recovery of those costs through the regular ratemaking process.

A financing order also would have to ensure that the imposition and collection of the authorized customer rate relief charges were nonbypassable, meaning the charges could not be offset by any credit.

The principal amount could be increased to include an amount sufficient to pay the financing costs for issuance, reimburse TPFA for any incurred costs, provide a bond reserve fund, and capitalize interest for the period determined necessary by the RRC.

TPFA would have to issue customer rate relief bonds at the RRC's request within 45 days after receipt of a financing order and determine the terms of the bonds that best achieved the economic goals of the financing order at the lowest practicable cost.

TPFA would have to deliver bond proceeds net of upfront financing costs to each utility sufficient to reimburse the determined regulatory asset amount within 15 days after the bonds were issued. For the February 2021 weather-related event, TPFA would have to deliver such bond proceeds by December 31, 2021.

A financing order would remain in effect and unabated notwithstanding the bankruptcy of the gas utility, TPFA, or any successors.

The financing order together with the customer rate relief property and the customer rate relief charges would be irrevocable and not subject to reduction, impairment, or adjustment, except under certain circumstances as authorized by the bill. The bill would provide a process by which a financing order could be appealed.

Property rights. Customer rate relief bonds would be the obligation solely of the assignee or issuing financing entity and would not be a debt of a gas utility or a debt or pledge of the faith and credit of the state or any political subdivision. The bonds would be nonrecourse to the credit or any assets of the state or of TPFA.

The interest of an assignee or pledgee in customer rate relief property would not be subject to setoff, counterclaim, surcharge, or defense by the utility or in connection with the bankruptcy of the utility, TPFA, or any other entity.

True-up mechanism. The bill would require a financing order to include a formulaic true-up charge adjustment mechanism that required the customer rate relief charges be reviewed and adjusted at least annually to correct any over- or under-collections of the previous 12 months and ensure the expected recovery of amounts sufficient to provide for the timely payment of upcoming scheduled bond payments and financing costs.

The bill would provide timelines for the notification and review of true-up charge adjustments.

Bond proceeds in trust. TPFA could deposit proceeds of customer rate relief bonds it issued with a trustee or the proceeds could be held by the comptroller in a dedicated trust fund outside the state treasury.

Bond proceeds would be held in trust for the exclusive benefit of the RRC's policy of reimbursing gas utility costs. TPFA would use the proceeds to reimburse each utility the determined regulatory asset amount, pay the financing costs of issuing the bonds, and provide bond reserves. If there were no outstanding bonds or interest to be paid, the remaining proceeds would have to be used to provide credits to utility customers.

Repayment of relief bonds. If any bonds or related financing costs remained outstanding, uniform monthly volumetric customer rate relief charges would have to be paid by all current and future customers of the utility for which a regulatory asset determination had been made until all bonds and costs were paid in full.

TPFA would have to report to the RRC the amount of the outstanding customer rate relief bonds and the estimated amount of annual bond administrative expenses.

Taxation. Bonds issued under the bill, related transactions, and profits made from bond sales would be exempt from taxation by the state or a political subdivision. A utility's receipt or collection of relief charges would be exempt from state and local income, sales, franchise, gross receipts, and other taxes or similar assessments.

A tax obligation of the utility arising from receipt of bond proceeds or the collection of relief charges would be an expense that could be recovered by the utility.

Other provisions. An assignee or financing party could not be considered to be a public utility or person providing natural gas service solely by virtue of transactions under the bill.

The creation, granting, perfection, and enforcement of liens and security interests in customer rate relief property would be governed by the bill and not other state law. The bill would provide related processes and notification requirements.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 1520 would minimize the impact to customers of the high cost of natural gas experienced during Winter Storm Uri by allowing gas utilities to recover extraordinary gas costs that resulted from the storm through securitization, a low-cost financial tool that allows for low interest rates on bonds and provides greater quantifiable benefits to ratepayers than conventional financing methods.

The cost of gas is not controlled by gas utilities but instead is set by the market and passed through to customers without markup. High demand for energy during the storm caused gas prices to rise, and as a result utilities incurred extraordinary gas costs to procure the supply needed to maintain service. Some utilities reported having incurred gas costs equal to two or three times more than expected annual gas costs. Because of these high gas costs, customers could see a significant increase in their monthly bills. To address this issue, CSHB 1520 would authorize securitization to recover these extraordinary costs, which is the best solution for customers as it would provide rate relief by extending the time frame over which the extraordinary costs would have to be recovered and lowering associated financing costs.

Securitization is a tried and true method that has been used previously in Texas for electricity utilities. This method allows entities to use the creditworthiness of the state to lower interest rates, ensuring ratepayers would not be impacted by additional fees. State policies have been cited as contributing factors that led to the widespread power outages experienced by millions of Texans. Therefore, it would be appropriate for the state to play a role in minimizing the impact of the storm to ratepayers and utilities, including through securitization of certain costs.

CRITICS SAY:

CSHB 1520 could increase the size of government and result in increased annual debt servicing costs.

NOTES:

According to the Legislative Budget Board, the bill would result in a negative impact of about $1.6 million to general revenue funds through fiscal 2023. The fiscal impact to revenue collections associated with the collection of relief bond charge amounts could not be determined.

SUBJECT: Updating dedicated fund balances available for budget certification

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 25 ayes — Bonnen, M. González, Ashby, C. Bell, Capriglione, Dean, Dominguez, Gates, Holland, Howard, A. Johnson, Jarvis Johnson, Julie Johnson, Minjarez, Morrison, Raney, Rose, Schaefer, Stucky, E. Thompson, Toth, VanDeaver, Walle, Wilson, Zwiener

0 nays

2 absent — Sherman, Wu

WITNESSES: For — None

Against — None

On — Vance Ginn, Texas Public Policy Foundation; (*Registered, but did not testify*: Phillip Ashley, Texas Comptroller of Public Accounts)

BACKGROUND: General revenue dedicated funds are funds collected for a specific purpose designated in state law. In the early 1990s, during a process called funds consolidation, the Legislature began phasing out restrictions on many dedicated revenue funds and changing the methods of fund accounting. While some funds were abolished, some were not. Since that time, the Legislature has enacted funds consolidation bills detailing which funds, accounts, and dedications were exempt from being abolished.

Unappropriated cash balances in general revenue dedicated accounts are counted as available to certify general revenue fund appropriations, according to the Legislative Budget Board's *Fiscal Size-Up for the 2020-21 Biennium*. Government Code sec. 403.095(b) makes dedicated revenue that on August 31, 2021, exceeds appropriated or encumbered amounts available for general government purposes and considers that dedicated revenue to be available for budget certification.

Texas Constitution, Art. 3, sec. 49a limits state spending to the amount of revenue the comptroller estimates will be available during the two-year budget period. The comptroller must certify that the state will have enough revenue to pay for approved spending.

DIGEST: HB 2896 would update references in Government Code sec. 403.095(b) to extend the section's provisions through fiscal 2023 and to make them apply to the 87th Legislature. The section would expire September 1, 2023. As a result, dedicated revenues that on August 31, 2023, were estimated to exceed the amount appropriated by the general appropriations act or other laws enacted by the 87th Legislature would be available for general purposes and would be considered available for budget certification.

The bill would abolish funds and accounts created, recreated, or dedicated by the 87th Legislature on the later of August 31, 2021, or the date when the act creating or dedicating them took effect.

Dedications, funds, and accounts would be excluded from abolition if they were enacted before the 87th Legislature convened to comply with requirements of state constitutional or federal law or if they remained exempt from being abolished during funds consolidation. Abolition also would not apply to increases in fees or other dedicated revenue and to increases in fees or revenue required to be deposited in a fund or account that was exempt. Certain federal funds, trust funds, bond funds, and constitutional funds also would be excluded.

The bill would not abolish newly authorized uses of dedicated funds or dedicated accounts, as provided in an act of the 87th Legislature, if an act affected a fund or account that was exempted from fund consolidation before January 1, 2021, and the newly authorized use was within the scope of the original dedication.

Interest and other earnings accruing on revenue in accounts in the general revenue fund that are available for certification and were created or re-created by the 87th Legislature, regular session, would be available for any general governmental purpose.

By September 30, 2021, the comptroller would have to take actions related to specialty license plates. The comptroller would have to eliminate all dedicated accounts established for specialty license plates and set aside the balances of those dedicated accounts for appropriations only for the purposes in their dedications. After September 1, 2021, the portion of a fee designated for a dedicated account would have to be paid instead to an account in a trust fund outside the general revenue fund that could be allocated only as provided for in the dedications of the revenue.

The bill would prevail over any other act of the regular session of the 87th Legislature that attempted to create a special fund or account or to dedicate revenue. Any exemption from Government Code sec. 403.095 provisions governing the use of dedicated revenue that was in another act of the 87th Legislature would have no effect. Revenue that would be deposited in a special account or fund under another act of the 87th Legislature would be deposited in the undedicated portion of the general revenue fund unless exempted under this bill.

HB 2896 also would prevail over any other act of the 87th Legislature, regular session, that attempted to allocate interest or other earnings accruing on revenue held in an account in the general revenue fund if available for certification under statute.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUBJECT: Securitization to recover non-ERCOT entities' weatherization costs

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

1 absent — Lucio

WITNESSES: For — JP Urban, AECT; Lino Mendiola, Association of Electric Companies of Texas; Tom Glass, Protect the Texas Grid; Matthew McFarlane, Python and Patriot Power Group; (*Registered, but did not testify*: Daniel Womack, Dow, Inc.; Cheryl Mele, El Paso Electric; Deanna Rodriguez, Entergy Texas; Gary Gibbs, Southwestern Electric Power Company; Katie Coleman, Texas Association of Manufacturers; Damon Withrow, Xcel Energy)

Against — None

On — Cyrus Reed, Lone Star Chapter Sierra Club; (*Registered, but did not testify*: Thomas Gleeson, Public Utility Commission of Texas)

BACKGROUND: Utilities Code ch. 36, subch. I establishes the standards and procedures governing securitization and recovery of system restoration costs by an electric utility. An electric utility can obtain timely recovery of system restoration costs and use securitization financing to recover these costs. The Public Utility Commission is required to ensure that securitization of system restoration costs provides greater tangible and quantifiable benefits to ratepayers than would have been achieved without the issuance of transition bonds.

"System restoration costs" means reasonable and necessary costs incurred by an electric utility due to any activity conducted in connection with the restoration of service and infrastructure associated with power outages as the result of any tropical storm or hurricane, ice or snow storm, flood, or other weather-related event or natural disaster that occurred in or after 2008. System restoration costs include mobilization, staging, and construction, reconstruction, replacement, or repair of electric generation, transmission, distribution, or general plant facilities. System restoration costs must include reasonable estimates of the costs of such an activity conducted or expected to be conducted by the electric utility, but estimates are subject to true-up and reconciliation after actual costs are known.

DIGEST:

CSHB 1510 would allow an electric utility operating solely outside the ERCOT power region to obtain timely recovery of system restoration costs through securitization and the issuance of transition bonds or system restoration bonds by an issuer other than the electric utility or an affiliated special purpose entity.

The bill would expand the definition of system restoration costs to include reasonable and necessary weatherization and storm-hardening costs incurred, as well as reasonable estimates of costs to be incurred, by the electric utility. Such estimates would be subject to true-up and reconciliation after the actual costs were known.

The same procedures, standards, and protections for securitization authorized under state law would apply to the lower-cost financing mechanism for securitization of transition costs or system restoration costs provided under the bill. Financing of system restoration costs under the bill would be a valid and essential public purpose.

To the extent of any conflict between this bill and other state law, the bill would control.

Texas Electric Utility System Restoration Corporation. The bill would create the Texas Electric Utility System Restoration Corporation as a nonprofit, special purpose public corporation and instrumentality of the state for the essential public purpose of providing a lower-cost, supplemental financing mechanism available to the Public Utility Commission (PUC) and an electric utility to attract low-cost capital to finance system restoration costs.

Administration. The corporation would have legal existence as a public corporate body and instrumentality of the state but would be separate and distinct from the state. It would have the powers, rights, and privileges provided to nonprofit corporations under state law, and an organizer selected by PUC would have to prepare the corporation's required certificate of formation.

The corporation would be governed by a five-director board appointed by PUC for two-year terms. The corporation could retain professionals, financial advisors, and accountants to fulfill its duties. State officers and agencies would be authorized to render services as requested by PUC or the corporation.

PUC would regulate the corporation consistent with the manner in which it regulates public utilities, and the corporation would have to submit an annual operating budget to PUC for approval.

Funding. The corporation would be self-funded, and its assets could not be considered part of any state fund. The state would be prohibited from budgeting for or providing any state money to the corporation. The corporation's debts, claims, obligations, and liabilities could not be considered to be a debt of the state or a pledge of its credit.

Before the imposition of transition charges or system restoration costs, the corporation could accept and expend money received from any source to finance obligations until it received sufficient transition property to cover its operating expenses and repay any short-term borrowing.

Powers and duties. The corporation could acquire, sell, pledge, or transfer transition property as necessary for the purposes of the bill and agree to such terms and conditions as it deemed proper to:

- acquire transition property and to pledge the property and any other collateral either to secure payment of system restoration bonds, together with payment of any other qualified costs, or to secure repayment of any borrowing from any other issuer of system restoration bonds; or

- sell the transition property to another issuer, which could in turn pledge that property, together with any other collateral, to the repayment of system restoration bonds issued by the issuer together with any other qualified costs.

The corporation also could:

- issue system restoration bonds on terms and conditions consistent with a financing order;
- borrow funds from an issuer of system restoration bonds to acquire transition property and pledge that property to the repayment of any borrowing from an issuer, together with any related qualified costs, consistent with a financing order;
- sue or be sued in its corporate name;
- intervene as a party before PUC or any court in any matter involving the corporation's powers and duties;
- negotiate and become party to contracts as necessary, convenient, or desirable to carry out the bill; and
- engage in corporate actions or undertakings that were permitted for nonprofit corporations and that were allowed by the bill.

The corporation would have to maintain separate accounts and records relating to each electric utility that collected system restoration charges for all charges, revenues, assets, liabilities, and expenses relating to that utility's related system restoration bond issuances.

The bill would require adequate protection and provision to have been made for the payment of outstanding bonds before the board could authorize any rehabilitation, liquidation, or dissolution of the corporation. In the event of any such action, the assets of the corporation would be applied first to pay all debts, liabilities, and obligations, and all remaining funds would be applied and distributed as provided by PUC.

The corporation could not file a voluntary petition or become a debtor under federal bankruptcy law until two years and one day after the corporation no longer had any payment obligation to any system restoration bonds. These restrictions would not be limited or altered by the state and would be part of the contractual obligation that was subject to the state pledge for the benefit and protection of financing parties and electric utilities.

Financing order. A financing order issued by PUC under the bill would have to:

- require the sale, assignment, or other transfer to the corporation of certain specified transition property created by the order, and, following that sale, assignment, or transfer, require that system restoration charges paid under any financing order be created, assessed, and collected as the property of the corporation, subject to subsequent sale, assignment, or transfer by the corporation as authorized under the bill; and
- authorize the electric utility to serve as agent to collect the system restoration charges and transfer them to the corporation, the issuer, or a financing party.

The financing order also would have to authorize:

- the issuance of system restoration bonds by the corporation secured by a pledge of specified transition property, and the application of the proceeds of those bonds, net of issuance costs, to the acquisition of the transition property from the electric utility; or
- the acquisition of specified transition property from the electric utility by the corporation financed either by a loan by an issuer to the corporation of the proceeds of system restoration bonds, net of issuance costs, secured by a pledge of the specified transition property or by the acquisition by an issuer from the corporation of the transition property financed from the net proceeds of transition bonds issued by the issuer.

After issuance of the financing order, the corporation would have to arrange for the issuance of system restoration bonds as specified in the order by it or another issuer selected by the corporation and approved by PUC. System restoration bonds issued pursuant to the order would be secured only by the related transition property and any other funds pledged under the bond documents. No assets of the state or electric utility would be subject to claims by bondholders. Following assignment of the transition property, the electric utility would not have any beneficial interest or claim of right in such system restoration charges or in any transition property.

Other provisions. In approving securitization under the bill, PUC would have to ensure that customers were not harmed as a result of any financing through the corporation and that any financial savings or other benefits were appropriately reflected in customer rates.

System restoration bonds solely would be the obligation of the issuer and the corporation as borrower and would not be a debt of or a pledge of the faith and credit of the state. The bonds would be nonrecourse to the credit of any assets of the state and PUC.

The bill would not limit or impair PUC's jurisdiction to regulate the rates charged and the services rendered by electric utilities.

An electric utility that received proceeds of securitization financing under the bill would not be required to provide utility services to the corporation or the state as a result, except in the role of the corporation or the state as a utility customer. The bill would not create an obligation of the corporation or an issuer to provide electric services to the utility or its customers.

Severability. Effective on the date the first system restoration bonds were issued under the bill, if any provision of the Public Utility Regulatory Act was held to be invalid or was invalidated, superseded, replaced, repealed, or expired for any reason, that occurrence would not affect the validity or continuation of the bill or other provisions of state law relevant to the issuance, administration, payment, retirement, or refunding of system restoration bonds or to any actions of the electric utility, its successors, an assignee, a collection agent, the corporation, an issuer, or a financing party. Those provisions would remain in full force and effect.

Certificate of convenience and necessity. The bill would allow but not require an electric utility operating solely outside of the ERCOT power region to obtain a certificate of convenience and necessity to install, own, or operate a generation facility with a capacity of 10 megawatts or less.

PUC would be required to consider any potential economic or reliability benefits associated with dual fuel and fuel storage capabilities in areas outside of the ERCOT power region when granting a certificate of convenience and necessity.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 1510 would promote cost-effective measures to enhance the weatherization of non-ERCOT utility facilities, while limiting the impact to customers through low-cost securitization funding. The winter storm in February demonstrated the need to make investments in the state's electricity infrastructure to better withstand and mitigate the effects of future extreme weather events.

PUC previously has used utility securitization financing to allow timely recovery of system restoration costs associated with storm-related expenses. Securitization is a low-cost financial tool that allows for low interest rates on bonds and provides greater quantifiable benefits to ratepayers than conventional financing methods. This bill would supplement the current securitization mechanism in statute by allowing weatherization and storm-hardening costs to be recoverable system restoration costs and by allowing the utility to transfer its rights under the financing order to another entity. This transfer would allow the utility to eliminate the securitization debt from its balance sheet, supporting the utility's credit, lowering the cost of debt, and benefiting ratepayers.

The bill also would enhance grid resiliency by encouraging generation investment. By allowing non-ERCOT utilities to bypass the certificate of convenience and necessity (CCN) regulatory process to deploy small-scale generation on their system, the bill would provide these utilities with the flexibility to quickly meet intermittent generation shortages. By requiring the PUC to consider economic or reliability benefits of dual fuel and fuel storage capabilities when considering a CCN for a generation facility, the bill would encourage utilities to pursue such investment, which can provide reliability and cost savings during fuel shortages.

CRITICS SAY: No concerns identified.

SUBJECT: Designating certain gas entities as critical during an energy emergency

COMMITTEE: Energy Resources — favorable, without amendment

VOTE: 9 ayes — Goldman, Anchia, Craddick, Darby, Geren, T. King, Leman, Longoria, Reynolds

0 nays

2 absent — Herrero, Ellzey

WITNESSES: For — JP Urban, AECT; Julia Harvey, Texas Electric Cooperatives, Inc.; (*Registered, but did not testify*: Greg Macksood, Devon Energy; Cyrus Reed, Lone Star Chapter Sierra Club; Sarah Gouak, Lower Colorado River Authority; Erika Akpan, NRG Energy; Julie Moore, Occidential Petroluem; Lon Burnam, Public Citizen; Jason Modglin, Texas Alliance of Energy Producers; Katie Coleman, Texas Association of Manufacturers.; Tulsi Oberbeck, Texas Oil and Gas Association; Mance Zachary, Vistra Corporation; Trace Finley, WaterBridge L.L.C.)

Against — None

On — (*Registered, but did not testify*: Connie Corona and Thomas Gleeson, Public Utility Commission of Texas; Paul Dubois and Mark Evarts, Railroad Commission of Texas)

DIGEST: HB 3648 would require the Railroad Commission (RRC) to work with the Public Utility Commission (PUC) and for each commission to adopt rules to designate certain gas entities and facilities as critical during an energy emergency.

RRC's rules would have to determine eligibility and designation requirements for persons owning, operating, or engaging in activities related to common carrier pipelines and oil and gas wells to provide critical customer designation and critical gas supply information to transmission and distribution utilities, municipally owned utilities, electric cooperatives, and the ERCOT power region.

The rules also would have to consider essential operational elements when defining critical customer designations and critical gas supply information, including natural gas production, processing, transportation, and the delivery of natural gas to generators.

PUC's rules would have to:

- ensure that transmission and distribution utilities, municipally owned utilities, electric cooperatives, and the ERCOT power region were provided with the critical customer designations determined by the RRC rules under the bill;
- provide for a prioritization for load-shed purposes of gas entities and facilities designated as critical; and
- provide discretion to transmission and distribution utilities, municipally owned utilities, and electric cooperatives to prioritize power delivery and restoration among the customers on their respective systems.

Both PUC and RRC would have to adopt rules by September 1, 2021. PUC would have to report to the Legislature on its implementation of the designation and prioritization requirements by January 1, 2022.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS SAY:

HB 3648 would take a critical step toward preventing service interruptions to natural gas and power generation facilities during a future energy emergency by addressing the lack of coordination between natural gas and electric providers that contributed to the extended power outages faced by millions of Texans during the recent winter storm.

During the storm, power was shut off to some natural gas facilities because they were not registered as critical load serving electric generation, affecting the natural gas supply to some electricity generation facilities. Some have raised concerns that such registration currently is merely voluntary, especially because of the link between the natural gas and electricity industries and because power generation from natural gas adds up to the majority of Texas' electricity production. HB 3648 would address this issue by requiring the Public Utility Commission and the Railroad Commission to work together to create a framework to designate certain gas facilities as critical during an energy emergency, ensuring the efficient flow of electricity to natural gas production facilities and thus the flow of natural gas to electric generators.

CRITICS SAY: No concerns identified.

SUBJECT: Renting electric generation equipment on a wattage per hour basis

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

1 absent — Lucio

WITNESSES: For — Katie Coleman, Texas Association of Manufacturers; Tommy Reynolds, Warren Equipment Company; (*Registered, but did not testify*: Daniel Womack, Dow, Inc.; Mark Vane, Husch Blackwell Strategies; CJ Tredway, Independent Electrical Contractors of Texas; Julie Moore, Occidental Petroleum)

Against — None

On — (*Registered, but did not testify*: Connie Corona, Public Utility Commission of Texas)

DIGEST: CSHB 1572 would define "electric generation equipment lessor or operator" to mean a person who was compensated by a third party for renting or operating electric generation equipment that:

- was used on a site where the third party was unable to obtain sufficient electricity service;
- produced electricity on site to be consumed by the third party and not resold; and
- did not interconnect with the electric transmission or distribution system.

An electric generation equipment lessor or operator would not be considered an electric utility and would not be considered a retail electric utility based solely on the actions described in the bill.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 1572 would allow an electric generation equipment lessor to rent out equipment on a wattage per hour basis in addition to the flat fee basis that is currently used. This would respond to customer concerns and requests and allow industries such as oil and gas and construction that rely on this equipment to operate more efficiently.

The ability to rent electric generation equipment on a wattage per hour basis, typically measured in kilowatts or megawatts, would provide much-needed flexibility to industries that sometimes operate on slim margins. These businesses are sophisticated consumers, and allowing them to rent equipment in the way they deem most efficient is an effective way to promote these vital industries in Texas. The ability to use a flat fee basis would still exist for lessors or lessees who prefer that.

The bill's provisions allow these equipment lessors to avoid Texas Public Utilities Commission certification requirements that in practice prevent these lessors from renting on a wattage per hour basis. Creating a distinction in statute between equipment lessors and electric utilities is appropriate because these lessors do not take power off the grid and sell it to a wide range of users. Instead, they generate power on-site, typically in an area without access to traditional means of providing power, and make it available to a single customer.

CRITICS SAY:

No concerns identified.

SUBJECT: Requiring TWC to develop a strategic plan for the child-care workforce

COMMITTEE: International Relations and Economic Development — committee substitute recommended

VOTE: 6 ayes — Button, C. Morales, Beckley, C. Bell, Metcalf, Ordaz Perez

0 nays

3 absent — Canales, Hunter, Larson

WITNESSES: For — Lyn Lucas, Camp Fire First Texas; Sandy Dochen, Early Matters Greater Austin; Kimberly Kofron, Texas Association for the Education of Young Children; (*Registered, but did not testify*: Priscilla Camacho, Alamo Colleges District; Charles Cohn, Angels Care and Learning Center; Marnie Glaser, Child Care Associates; Mandi Kimball, Children At Risk; Christine Wright, City of San Antonio; Jennifer Toon, Coalition of Texans with Disabilities; Tom Hedrick, Dillon Joyce Ltd.; Libby McCabe, Early Matters and The Commit Partnership; Jonathan Lewis, Every Texan; Thamara Narvaez, Harris County Commissioners Court; Ky Ash, Methodist Healthcare Ministries of South Texas; Melanie Rubin, North Texas Early Education Alliance; David Feigen, Texans Care for Children; Stephanie Retherford, Texas Licensed Child Care Association; Jennifer Lucy, TexProtects; Dana Harris, The Greater Austin Chamber of Commerce; Julie Wheeler, Travis County Commissioners Court; Ashley Harris, United Ways of Texas; Brooke Freeland; Vanessa MacDougal)

Against — None

On — Reagan Miller, Texas Workforce Commission

DIGEST: CSHB 619 would require the Texas Workforce Commission (TWC) to prepare a strategic plan for improving the quality of the infant, toddler, preschool, and school-age child care workforce in Texas.

The plan would have to include best practices from local workforce development boards in Texas and other programs designed to support child-care workers, specific recommendations for improving the infant and toddler child-care workforce, and a timeline and benchmarks for TWC and local workforce development boards to implement the recommendations from the strategic plan. The strategic plan also would have to include recommendations for:

- local workforce development boards to improve, sustain, and support the child-care workforce;
- increasing compensation for and reducing turnover of child-care workers;
- eliminating racial and gender pay disparity in the child-care workforce;
- increasing paid opportunities for professional development and education for child-care workers, including apprenticeships;
- increasing participation in the Texas Early Childhood Professional Development System; and
- public and private institutions of higher education to increase the use of articulation agreements with school districts and open-enrollment charter schools and assist in the education and training of child-care workers.

TWC would have to convene a workgroup including child-care providers, community stakeholders, and child-care workers to assist the commission in developing the plan.

In creating the plan, TWC would have to use the following information:

- demographic data of child-care workers in Texas, including the race, ethnicity, gender, and education attainment of child-care workers and the ages of the children the workers serve;
- compensation data for child-care workers disaggregated by race, ethnicity, gender, and education attainment;
- demographic and compensation data for a representative sample set of child-care facilities in Texas;
- and information provided by the workgroup.

By December 31, 2022, TWC would have to provide the strategic plan to the governor, lieutenant governor, and the speaker of the house of representatives. The commission would have to update the strategic plan every three years.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 619 would help the state improve early childhood education outcomes, address income and education disparities between child-care workers and other educators, and support the Texas economy by requiring the Texas Workforce Commission (TWC) to create a strategic plan to support the child-care workforce.

Despite being crucial to early childhood development, working families, and businesses in Texas, child-care workers are underpaid relative to other educators, and many of these child-care workers are women of color. CSHB 619 would begin to address the economic and educational disparities impacting the child-care workforce by requiring TWC to work with stakeholders to make recommendations to local workforce development boards, identify opportunities for career advancement and professional development, and create a timeline for the implementation of the strategic plan’s recommendations. Creating the strategic plan would be the first step to improving early childhood development outcomes in Texas while supporting the child-care workforce and working families.

The bill would not diminish child-care choices for parents nor require parents to make certain decisions regarding child-care. The focus of the bill is studying racial and gender disparities in child-care worker pay, identifying career advancement opportunities for child-care workers, and making recommendations to improve the child-care workforce.

CRITICS SAY:

CSHB 619 would unnecessarily involve the state in the economics of child-care in Texas, where there already is a wide market that provides many options for parents.

NOTES:

According to the Legislative Budget Board, the bill would have no impact on general revenue related funds, but would have a negative impact of about $1.3 million over five years to Workforce Commission Federal

Account 5026. The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

SUBJECT: Consolidating jurisdiction over man-made CO2 injection and storage

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 10 ayes — Goldman, Anchia, Craddick, Darby, Ellzey, Geren, T. King, Leman, Longoria, Reynolds

0 nays

1 absent — Herrero

WITNESSES: For — Ben Shepperd, Permian Basin Petroleum Association; (*Registered, but did not testify*: Lauren Spreen, Apache Corporation; Chris Hosek, BP America; Michael Grimes, Cheniere LNG Inc.; Julie Williams, Chevron; Clay Pope, Clear Path Action; Stan Casey, ConocoPhillips; Carrie Simmons, Conservative Texans for Energy Innovation; Teddy Carter, Devon Energy; Scott Andersen, Environmental Defense Fund; Samantha Omey, ExxonMobil; Lindsay Munoz, Greater Houston Partnership; Julie Moore, Occidental Petroleum; Bill Stevens, Panhandle Producers and Royalty Owners Association; Kinnan Golemon, Shell Oil Company; Rene Lara, Texas AFL-CIO; Jason Modglin, Texas Alliance of Energy Producers; Mark Vickery, Texas Association of Manufacturers; Tom Glass, Texas Constitutional Enforcement; Ryan Paylor, Texas Independent Producers & Royalty Owners Association; Tulsi Oberbeck, Texas Oil and Gas Association)

Against — (*Registered, but did not testify*: Susana Carranza)

On — Leslie Savage, Railroad Commission of Texas; Ashley Forbes, Texas Commission on Environmental Quality; Scott Tinker, University of Texas

BACKGROUND: Natural Resources Code sec. 121.003 establishes the anthropogenic carbon dioxide storage trust fund, an interest-bearing trust fund which may be used by the Railroad Commission only for several designated purposes relating to the regulation, monitoring, and maintenance of anthropogenic carbon dioxide injection wells and geologic storage facilities. Fees and penalties received by the Railroad Commission in connection with the commission's regulation of carbon dioxide injection and storage under certain Water Code provisions are deposited to the credit of the fund.

DIGEST:

CSHB 1284 would establish the jurisdiction of the Texas Railroad Commission (RRC) over all onshore and offshore injection and geologic storage of man-made carbon dioxide. The bill would repeal the jurisdiction of the Texas Commission on Environmental Quality (TCEQ) over the injection of carbon dioxide produced by clean coal projects and would transfer TCEQ's jurisdiction over standards for offshore carbon dioxide storage to RRC. The bill also would repeal a provision in current statute that makes RRC's jurisdiction over carbon dioxide injection into certain saline formations subject to the Legislature's review.

RRC could not issue a permit to convert a previously plugged and abandoned Class I injection well to a Class VI carbon dioxide injection well. Applications to RRC for a permit related to the geologic injection or storage of carbon dioxide would have to include a letter from TCEQ determining that the project would not impact or interfere with any existing injection well authorized or permitted by TCEQ.

The bill would require RRC to adopt rules for the collection and administration of funds received by the commission for the proper management of carbon dioxide injection wells or storage facilities. Such funds would be deposited in the anthropogenic carbon dioxide storage trust fund established under the Natural Resources Code. Penalties collected by RRC related to offshore carbon dioxide storage also would be deposited in the fund. The bill would specify that the fund could be used to finance permitting related to man-made carbon dioxide injection and storage in addition to other uses established by current statute.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 1284 would consolidate regulatory authority for Class VI underground injection control (UIC) wells under the Railroad Commission, removing a logistical obstacle to Texas being granted primacy from the Environmental Protection Agency (EPA) over such wells. Class VI UIC wells are used to inject man-made carbon dioxide into rock formations for sequestration and storage, but the current process to obtain a permit for these wells can be difficult and inefficient.

Currently, state regulation of UIC wells is split between the Railroad Commission (RRC) and the Texas Commission on Environmental Quality (TCEQ), depending on the well's purpose, and Texas has primacy over all UIC wells except for Class VI wells. If primacy were granted by the EPA for Class VI wells, individual companies would no longer need to go through the often long and onerous process of applying directly to the EPA for a Class VI UIC well permit. However, split authority presents an administrative burden on any request to receive primacy from the EPA. Granting RRC full authority over these wells would make it easier for the state to receive primacy over such wells, which in turn would make it easier to capture and sequester more man-made carbon dioxide. This would provide both environmental and economic benefits, since many companies have pledged to seek carbon neutrality and will need to purchase storage.

If primacy were granted, RRC would still be required to uphold and enforce the EPA's environmental standards, and primacy could be revoked if the commission failed to do so. Whether or not primacy is received, TCEQ would continue to have input on each application for a permit to build a Class VI injection well, since the bill would require that applicants get a letter from TCEQ confirming that the new well would not impact or interfere with any injection wells authorized by TCEQ.

CRITICS SAY:

CSHB 1284 would transfer authority over Class VI UIC wells in Texas from TCEQ to the Railroad Commission, which could lead to less consideration being given to environmental concerns in permitting decisions and general oversight because RRC is not an environment-focused agency. While making it easier to sequester carbon dioxide is a worthy goal, UIC wells can have unintended consequences and require careful permitting.

SUBJECT:	Requiring occupied lifeguard towers and signage on coastal beaches
COMMITTEE:	Culture, Recreation and Tourism — favorable, without amendment
VOTE:	9 ayes — K. King, Gervin-Hawkins, Burns, Clardy, Frullo, Israel, Krause, Martinez, C. Morales 0 nays
WITNESSES:	For — Kiwana Denson; (*Registered, but did not testify*: Philip Barquer, Austin Travis County EMS; Ryan Brannan, Galveston Park Board of Trustees) Against — None
BACKGROUND:	Natural Resources Code secs. 61.065, 61.066, and 61.067 establish the responsibility of a municipality, county, or the Parks and Wildlife Department to clean and maintain the condition of all public beaches in their governed area. Parks and Wildlife Code ch. 13 establishes the powers and duties of the Parks and Wildlife Department concerning state parks and other recreational areas.
DIGEST:	HB 3807 would require municipalities, counties, and the Parks and Wildlife Department (TPWD) as part of their duties to clean and maintain public beaches to add signs and lifeguards in certain areas. The municipality, county, or TPWD would have to provide lifeguard towers on each side of each pier, jetty, or other structure that protruded into the Gulf of Mexico, was within its corporate boundaries, on a certain public beach, or within a state park. The towers would have to be occupied by lifeguards during reasonable daylight hours from March through November. The bill also would require posted signs within 100 yards of each structure describing the dangerous water conditions that could occur near the structure. The bill would take effect September 1, 2021.

SUPPORTERS SAY:

HB 3807 would improve public safety by requiring occupied lifeguard towers to be installed and signs to be posted that describe dangerous water conditions that can appear near structures in certain areas along the Gulf Coast.

The bill would improve education and awareness of these dangers and potentially avert the loss of life that has resulted from these natural conditions, which pose a significant risk from the undertow that can occur near rock formations, piers, and jetties on coastal beaches.

The bill would require occupied lifeguard towers to be provided near the relevant areas during daylight hours from March through November, which would provide a visual cue to beachgoers of the potential dangers and would increase the likelihood of a successful rescue in the event an individual was caught in the undertow near the rocky structures.

The modest cost to implement the bill's provisions is worth the lives that will be saved from dangerous water conditions as a result of improved awareness generated by the informational signs and the presence of manned lifeguard towers.

CRITICS SAY:

HB 3807 would impose a state mandate to install lifeguard towers and signs on local governments, which should be able to determine for themselves whether those safety features are necessary and appropriate.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of $1.4 million in general revenue dedicated funds in fiscal 2022-23.

SUBJECT:	Extending eligibility for Homes for Texas Heroes to social workers
COMMITTEE:	Urban Affairs — favorable, without amendment
VOTE:	8 ayes — Cortez, Holland, Bernal, Campos, Gates, Jarvis Johnson, Minjarez, Slaton 0 nays 1 absent — Morales Shaw
WITNESSES:	For — Alison Mohr Boleware and Ali Smith, National Association of Social Workers (*Registered, but did not testify*: Greg Hansch, National Alliance on Mental Illness Texas; Bri Sowers, National Association of Social Workers - Texas; Lee Johnson, Texas Council of Community Centers; Alycia Castillo; Jessica Riley) Against — None On — (*Registered, but did not testify*: Joniel Levecque and Michael Wilt, Texas State Affordable Housing Corporation)
BACKGROUND:	Government Code sec. 2306.5621 establishes the Homes for Texas Heroes loan program under the Texas State Affordable Housing Corporation to provide low-interest home mortgage loans to fire fighters, peace officers, corrections officers, county jailers, public security officers, emergency medical services personnel, professional educators, and veterans. To be eligible for the program, a person must reside in the state and have an income of no more than 115 percent of area median family income or the maximum amount permitted by the Internal Revenue Code of 1986, whichever is greater.
DIGEST:	HB 2670 would extend eligibility for participation in the Homes for Texas Heroes program to licensed social workers.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS SAY:

HB 2670 would incentivize the growth of a much-needed service profession by making low-interest home loans available to social workers. By offering this incentive, the bill would encourage the pursuit of licensure in social work and contribute to the stability of the state's mental health workforce.

Social workers were deemed essential workers during the COVID-19 pandemic, and they are an important part of interdisciplinary care teams in schools, hospitals, mental health centers, non-profits, corporations, the military, and all levels of government. Social workers already work closely with many of the other professions covered by the Homes for Texas Heroes programs, so it would be reasonable and beneficial to include them in the program. The funds needed are already secure and would be able to help many social workers, whose salaries are typically well within the program's eligibility requirements.

The bill would not establish any new government program or appropriate any new funds but would benefit the state by using an existing program to attract workers to a profession that provides a crucial public service.

CRITICS SAY:

HB 2670's extension of the state's low-interest loan program to social workers is inappropriate because subsidizing home mortgage loans is not a proper role for government.

SUBJECT: Requiring state divestment from companies boycotting energy companies

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Paddie, Hernandez, Deshotel, Harless, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson, Smithee

1 nay — Howard

WITNESSES: For — Jason Modglin, Texas Alliance of Energy Producers; Brent Bennett, Texas Public Policy Foundation; Michael Belsick; James Lofton; (*Registered, but did not testify*: Caleb Troxclair, DoublePoint Energy; Kelly McBeth, Howard Energy Partners; Michael Lozano, Permian Basin Petroleum Association; Neftali Partida, Phillips 66; Danielle Delgadillo, Soth Texas Electric Coop; Ryan Paylor, Texas Independent Producers & Royalty Owners Association; Shana Joyce, Texas Oil and Gas Association; Russell Hayter; Thomas Parkinson; Gary Zimmerman)

Against — Robin Schneider, Texas Campaign for the Environment (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Jason Sabo, Environment Texas; Cyrus Reed, Lone Star Chapter Sierra Club; Joshua Houston, Texas Impact; and 13 individuals)

On — Whitney Blanton, Texas Treasury and Safekeeping Trust Company

DIGEST: CSHB 2189 would require state governmental entities to divest from financial companies that boycott energy companies, subject to certain conditions related to fiduciary duty.

Definitions. The bill would define "boycott energy company" as refusing to deal with, terminating business activities with, or otherwise taking any action that is, solely or primarily, intended to penalize, inflict economic harm on, or limit commercial relations with a company because it:

- engaged in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not

commit or pledge to meet environmental standards beyond applicable federal and state law, or;
- did business with a company that engaged in these actions.

"Financial company" would mean a publicly traded financial services, banking, or investment company.

"State governmental entity" would mean:

- the Employees Retirement System of Texas, including a retirement system administered by that system;
- the Teacher Retirement System of Texas;
- the Texas Municipal Retirement System;
- the Texas County and District Retirement System;
- the Texas Emergency Services Retirement System; and
- the Permanent School Fund.

"Indirect holdings" would mean, with respect to a financial company, all securities of a financial company held in an account or fund, such as a mutual fund managed by one or more persons not employed by a state governmental entity, in which the state governmental entity owns shares or interest together with other investors not subject to the provisions of the bill. The term does not include money invested under a plan described by Section 401(k) or 457 of the Internal Revenue Code of 1986.

List of boycotting companies. The comptroller would prepare and maintain a list of all financial companies that boycott energy companies. In maintaining the list, the comptroller would be able to review and rely on publicly available information and request written verification from a financial company that it does not boycott energy companies. The comptroller could rely on a written response without further investigation. A company that failed to provide such written verification before the 61st day after receiving the request from the comptroller would be presumed to be boycotting energy companies. The comptroller would update the list annually or more often but not more often than quarterly. No later than 30 days after the list was provided or updated, it would be filed by the comptroller with the presiding officer of each legislative house and the attorney general and post the list on a publicly available website.

Divestment procedure. No later than 30 days after a state governmental entity received the list, the entity would notify the comptroller of any listed financial companies in which it owned direct or indirect holdings. For each listed financial company so identified, the entity would send a written notice:

- informing the company of its listed status;
- warning the company of possible divestment;
- offering the company the opportunity to clarify its activities related to the boycotting of energy companies.

Financial companies would be required to cease boycotting energy companies no later than 90 days after receiving such notice in order to avoid qualifying for divestment by state governmental entities. If during this period a financial company ceased boycotting energy companies, the comptroller would remove it from the list. If a financial company continued boycotting energy companies, state government entities would be required to sell, redeem, divest, or withdraw all publicly traded securities of the financial company.

At least 50 percent of these assets would have to be removed no later than 180 days after the financial company received notice, and 100 percent no later than 360 days after notice. The initial 50 percent divestment could be delayed if the state entity determined that a later date would be more prudent; otherwise the entity could delay only to the extent that it determined that divestment would likely result in a loss in value or a benchmark deviation. Any entity delaying under such conditions would be required to submit an explanatory report, including supporting documentation with objective numerical estimates, to the leader of each legislative house and the attorney general. The entity would have to update the report every 6 months.

Indirect holdings exempted. State governmental entities would not be required to divest from indirect holdings, but would be required to send letters to the managers of each investment fund containing listed financial companies requesting that they remove those companies from the fund or create a similar fund without such financial companies, in which the state entity could replace its investments no later than 450 days after the fund's creation.

Other exemptions. A state governmental entity would be able to cease divesting from listed financial companies only if clear evidence showed that the entity had suffered or would suffer a value loss of managed assets or benchmark deviation of an individual portfolio due to divestment. State governmental entities would only be allowed to cease divesting to the extent needed to avoid a value loss or benchmark deviation, and otherwise would be prohibited from acquiring securities of a listed financial company. Before ceasing divesting from a listed company, the entity would have to provide a written explanatory report, including supporting evidence, to the comptroller, the leader of each legislative house, and the attorney general. The entity would update the report semiannually.

A state governmental entity would not be subject to a requirement of the bill if the entity determined that the requirement would be inconsistent with its fiduciary responsibility with respect to the investment of assets and related legal duties.

Report. No later than January 5 of each year, each state governmental entity would file a publicly available report with the leader of each legislative house and the attorney general that would identify all divestments, prohibited investments, and changes made under the provisions of this bill.

Contracts with boycotting companies prohibited. A state agency or political subdivision would be prohibited from entering a contract for goods and services with any company without written verification in the contract that the company did not boycott energy companies and would not do so during the term of the contract. This prohibition would not apply to contracts with sole proprietorships and would apply only to contracts with a company with 10 or more employees and a value of $100,000 or more that is to be paid wholly or partly from public funds of the state agency or subdivision. The bill's provisions would apply only to contracts entered into on or after the effective date.

Legal exemptions and indemnity. CSHB 2189 would exempt the comptroller and state governmental entities from any conflicting statutory or common law obligation with regard to actions taken in compliance with the bill's provisions. In causes of action arising under the provisions of the bill, the state would indemnify state governmental entities, their employees, officers, and contractors, and their former employees, officers, and contractors who were such when the act or omission on which the damages were based occurred. Pursuit of a private cause of action based on the provisions of the bill would be prohibited, and any person attempting such a suit would be liable for the costs and attorney's fees of the person sued.

Enforcement. The attorney general could bring any action necessary to enforce the bill's provisions regarding investments by state governmental entities.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 2189 would help protect the state's investments and the overall economic health of Texas by requiring state entities to divest as much as possible from companies that unfairly target energy producers. The politically motivated movement to deny capital to businesses involved in the fossil fuel industry will harm the state's economy. The oil and gas industry is responsible for nearly one-third of the state's gross domestic product, contributes billions to schools, infrastructure, and the rainy day fund, and provides many high-paying jobs in rural areas. Texas funds and taxpayer dollars should not be used to do business with companies whose policies undermine the economic success of the state by making needed energy less affordable and less secure.

CSHB 2189 would ensure the stability of the state's investments by only requiring divestment that would not result in a loss of value or breach of fiduciary duty. The oil and gas industry is a vital sector of the Texas economy and realistically will remain so for the foreseeable future, so standing up to financial discrimination against the industry is in the state's best interests. By divesting from boycotting companies, the state would simply be exercising the same right to make investment decisions that those companies are exercising by boycotting energy providers. The bill would not prevent but would actually encourage the state to seek out the best available investments.

The process of creating the list required by the bill would not be onerous and could be contracted to a third party vendor. Any cost associated with creating the list is justified by the need to remove, whenever possible, state business from companies that unfairly target an industry vital to Texas' economic success.

The bill would not impose any legal restrictions on speech, political activity, or investment decisions, so it would not violate the First Amendment rights of any company. The provisions of the bill would exercise the state's right to do business or not with whichever companies it chooses.

CRITICS SAY:

CSHB 2189 would endanger the health of state retirement funds and hinder the long-term growth prospects of the state's economy by limiting the state's investment options. The financial market is moving toward increased divestment from fossil fuels for sound economic reasons and will continue to do so into the future. Meanwhile, oil and gas are economically underperforming relative to other industries. Texas should be looking to capitalize on these market trends rather than resisting them. In order to remain business-friendly, the state should not attempt to pressure or penalize companies for their investment decisions but should seek out the best investments available.

Unlike previous state divestment efforts, CSHB 2189 would require a list of companies that does not already exist. Creating and maintaining this list would entail administrative overhead and waste taxpayer money, especially if state entities ultimately remain invested in listed companies, making the list little more than a symbolic gesture.

OTHER CRITICS SAY:

The purchasing decisions of companies often reflect their political beliefs and values. By forcing companies to choose between expressing their beliefs and their ability to contract with the state, CSHB 2189 would infringe on their First Amendment rights.

NOTES: According to the Legislative Budget Board, the fiscal impact of provisions that would prohibit state governmental entities from investing in financial companies that boycott energy companies and prohibit certain governmental entities from executing contracts with the same companies cannot be determined.

SUBJECT: Requiring licensure for certain genetic counselors

COMMITTEE: Public Health — favorable, without amendment

VOTE: 11 ayes — Klick, Guerra, Allison, Campos, Coleman, Collier, Jetton, Oliverson, Price, Smith, Zwiener

0 nays

WITNESSES: For — Carla McGruder, Texas Society of Genetic Counselors; (*Registered, but did not testify*: Amber Hausenfluck, CHRISTUS Health; Eric Woomer, Texas Pediatric Society)

Against — None

On — Brian Francis, Texas Department of Licensing and Regulation

BACKGROUND: Occupations Code sec. 51.2031 prohibits the Texas Commission of Licensing and Regulation from adopting a new rule on certain professions' scope of practice or health-related standard of care unless the rule is proposed by the profession's advisory board.

DIGEST: HB 2053 would require licensure for the practice of genetic counseling and establish the Licensed Genetic Counselor Advisory Board.

"Practice of genetic counseling" would be defined as providing certain professional services for compensation to communicate genetic information to an individual, family, group, or other entity:

- on the documented referral by a physician, physician assistant, or an advanced practice registered nurse licensed in this state, or a person acting under delegated authority; or
- by a patient's self-referral.

Practice of genetic counseling would include:

- obtaining and evaluating individual, family, and medical histories to determine the risk for a genetic or medical condition or disease in a patient, the patient's offspring, or other family members;
- discussing the features, natural history, means of diagnosis, genetic and environmental factors, and risk management for a genetic or medical condition or disease;
- identifying, coordinating, ordering, and explaining the results of genetic laboratory tests and other diagnostic studies as appropriate for genetic assessment; and
- providing written documentation of medical, genetic, and counseling information for a patient's family members and health care providers, among other specified provisions.

The practice of genetic counseling would exclude the diagnosis of disorders. The bill also would not authorize the practice of medicine as defined by state law.

Licensure. The bill would prohibit a person from acting as a genetic counselor or engaging in the practice of genetic counseling in the state unless the person was licensed.

Eligibility. To receive a genetic counselor license, an applicant would have to present evidence to the Texas Department of Licensing and Regulation (TDLR) that the applicant:

- passed an examination by a certifying entity or an equivalent examination in genetic counseling approved by the department;
- was currently certified by a certifying entity in genetic counseling or medical genetics;
- met the certifying entity's educational requirements, which would have to include a master's degree in genetic counseling or medical genetics or an equivalent educational standard;
- was in compliance with all professional, ethical, and disciplinary standards established by the certifying entity; and
- was not subject to any disciplinary action by the certifying entity.

"Certifying entity" would mean the American Board of Medical Genetics and Genomics, the American Board of Genetic Counseling, or another entity that was nationally accredited to issue credentials in the practice of genetic counseling and was approved by TDLR.

The department would have to issue a genetic counselor license to an applicant who complied with the requirements, including any additional requirements the Texas Commission of Licensing and Regulation established by rule, and paid the commission's required fees.

Application. An applicant for a license would have to submit an application in the form prescribed by the department; successfully complete a state-approved criminal background check; and pay the application fee set by the commission.

Expiration and renewal. A license would expire on the second anniversary of the date of issuance. Before a license expired, a license could be renewed by:

- submitting an application for renewal;
- paying the renewal fee imposed by the commission; and
- providing verification to the department of continued certification by a certifying entity, which signified that the applicant for renewal had met any of the entity's continuing education requirements.

Exemptions. Under the bill, a person could engage in the practice of genetic counseling without holding a license if the person was a genetic counselor who:

- was certified by a certifying entity;
- was not a resident of the state;
- performed an activity or provided a service in the state for no more than 30 days during any year; and
- met any other requirement established by rule by the commission.

A person could engage in the practice of genetic counseling without holding a license if the person was licensed, certified, or registered to practice in the state in a health care-related occupation and:

- acted within the occupation's scope of practice; and
- did not use the title "genetic counselor" or represent or imply the person was a licensed genetic counselor under the bill.

Certain students or interns enrolled in a graduate-level supervised genetic counseling training program, among other provisions, also could practice genetic counseling.

The bill would not apply to a physician licensed to practice medicine in the state unless the physician was a licensed genetic counselor.

TDLR duties. The bill would require TDLR to:

- administer and enforce the bill;
- evaluate the qualifications of license applicants;
- provide for the examination of license applicants;
- issue licenses;
- in connection with a hearing, issue subpoenas, examine witnesses, and administer oaths under the state's laws; and
- investigate persons engaging in practices that violated the bill's provisions.

Disciplinary action. The executive director of TDLR could take certain disciplinary actions against a license holder who violated the chapter established by the bill, an adopted rule, or an order of the commission or executive director.

Confidential information. Under the bill, all information and materials subpoenaed or compiled by TDLR in connection with a complaint and investigation would be confidential and not subject to disclosure under the Public Information Act and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department or its employees or agents involved in discipline of a license holder.

The bill would specify persons to whom the above information could be disclosed, including persons involved with the department in a disciplinary action against a license holder; a professional genetic counselor licensing or disciplinary board in another jurisdiction; and law enforcement agencies, among other authorized persons.

Notices of alleged violations and final disciplinary actions issued by the department, the commission, or the department's executive director, would not be confidential and subject to disclosure under the Public Information Act.

Advisory board. The bill would establish the Licensed Genetic Counselor Advisory Board to provide advice and recommendations to TDLR on certain technical matters.

Membership; terms. The board would include nine members appointed by the presiding officer of the commission. Appointed members would serve staggered six-year terms and they could not serve more than two consecutive six-year terms. As soon as practicable after the bill's effective date, the commission's presiding officer would have to appoint the nine members to the advisory board as specified in the bill.

The commission's presiding officer would designate a board member to serve as the presiding officer of the advisory board for a two-year term.

Reimbursement. The bill would entitle a board member to reimbursement for actual and necessary expenses incurred in performing functions as a member of the advisory board, subject to any applicable limitation on reimbursement provided by the general appropriations act. A board member could not receive compensation for service on the advisory board.

Enforcement; rulemaking authority. The commission, department, or executive director could enforce the bill's provisions, an adopted rule, or an order of the commission or executive director as provided by state law.

By May 1, 2022, the Texas Commission of Licensing and Regulation would have to adopt rules to:

- enforce the bill's provisions;
- establish standards of ethical practices; and
- set fees in amounts reasonable and necessary to cover the costs of administering the chapter.

Other provisions. The bill would add genetic counselors to the list of professions under Occupations Code sec. 51.2031 in which the commission could not adopt a new rule unless it was proposed by the Licensed Genetic Counselor Advisory Board.

The following provisions would take effect September 1, 2022: requiring licensure for genetic counselors under Occupations Code sec. 508.151 and authorizing enforcement procedures under ch. 58, subch. F.

The bill would take effect September 1, 2021, unless otherwise stated.

SUPPORTERS SAY:

HB 2053 would improve protections for Texas patients seeking genetic counseling services by requiring licensure for genetic counselors. Genetic counselors provide risk assessments, education, and support to individuals and families at risk for or diagnosed with various inherited conditions.

Currently, genetic counselors are trained and accredited in master's degree programs and certified by the American Board of Genetic Counseling, among other certifying entities. Several other states have already established licensure for genetic counselors or are in the rulemaking process. However, Texas does not have any enforceable education and ethical standards for genetic counselors, putting patients at risk of physical, emotional, and financial harm. The bill is necessary to ensure patient safety and create accountability for those wishing to provide genetic counseling services in this state.

Establishing a licensure process also could encourage graduates of genetic counseling education programs to stay in or move to Texas, growing the health professional workforce and increasing patients' access to genetic counseling services.

CRITICS SAY:	HB 2053 would increase government regulation by requiring licensure to practice genetic counseling in Texas.

SUBJECT:	Authorizing certain minors to consent to home visiting program services
COMMITTEE:	Public Health — favorable, without amendment
VOTE:	11 ayes — Klick, Guerra, Allison, Campos, Coleman, Collier, Jetton, Oliverson, Price, Smith, Zwiener 0 nays
WITNESSES:	For — Brittany McAllister, Nurse-Family Partnership; (*Registered, but did not testify*: Alison Mohr Boleware, National Association of Social Workers-Texas Chapter; Adriana Kohler, Texans Care for Children; Clayton Travis, Texas Pediatric Society; Brittney Taylor, TexProtects; Molly Weiner, United Ways of Texas; Vanessa MacDougal) Against — None
BACKGROUND:	Government Code ch. 531 subch. X establishes the Texas Home Visiting Program and requires the Health and Human Services Commission to maintain a strategic plan to serve at-risk pregnant women and families with children under the age of six through home visits. The commission may determine if a risk factor or combination of risk factors experienced by an at-risk pregnant woman or family qualifies the woman or family for enrollment in a home visiting program.
DIGEST:	HB 2490 would authorize an individual younger than 18 years of age to consent to enrollment in and to receive services from a home visiting program if the individual was otherwise eligible for the program. The bill would take effect September 1, 2021.
SUPPORTERS SAY:	HB 2490 would help at-risk, low-income teenage mothers in Texas receive in-home supportive services after their babies are born. Currently, a pregnant teen can consent to home visits from a registered nurse or other trained professional before the birth of her child and may continue to accept services for the baby. However, agencies that provide

home visits report confusion about whether a new mother younger than 18 can consent to enroll in and receive continuing services for herself after the birth. HB 2490 would clarify the law by allowing these young mothers to consent to ongoing visits while they adjust to the demands of motherhood.

Supportive in-home services, such as those provided by evidence-based community health programs, have been shown to significantly improve the health and economic lives of first-time moms and children living in poverty. At-risk teenage mothers who participate in home visit programs demonstrate increased economic self-sufficiency and preside over more stable families. Their children are less likely to be abused or neglected, experience language delays or behavioral or intellectual problems, or be arrested as teenagers.

HB 2490 would improve health and economic outcomes for the most vulnerable new families in Texas. The bill would save the state money by avoiding the need to provide aid or more expensive services later to broken families.

Currently there is no clear directive allowing minors to consent to home visiting services after their baby is born, which means if they have been receiving services that have been helpful to them during pregnancy and are unable to get in touch with their parents for consent, they may have to stop using the services and lose the support of their nurses at a critical time for their newborn.

CRITICS SAY:

HB 2490 could improperly interfere with parental authority by allowing a minor who is legally unable to provide consent to enroll in and receive in-home support services.